

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida
Power & Light Company.

DOCKET NO. 160021-EI
ORDER NO. PSC-16-0178-CFO-EI
ISSUED: May 4, 2016

ORDER GRANTING FLORIDA POWER & LIGHT COMPANY'S
MOTION FOR TEMPORARY PROTECTIVE ORDER

On April 18, 2016, pursuant to Section 366.093(3), Florida Statutes (F.S.), and Rule 25-22.006, Florida Administrative Code (F.A.C.), Florida Power & Light Company (FPL) filed a Motion for Temporary Protective Order for its responses to the Office of Public Counsel's (OPC) First Set of Interrogatories Nos. 3, 20, 25, 46, and 68 and First Request for Production of Documents Nos. 1, 2, 7, 8, 10, 11, 15, 19-21, 28, 34, 36, 38, and 39. FPL's responses to OPC's Interrogatories Nos. 3, 20, 25, 46, and 68 contain budgeted and forecasted information for 2020, uncertain tax positions for 2014 and 2015, information regarding tax audits for Next Era Energy for 2014 and 2015, depreciation allocation data, and information regarding non-perpetual rights-of-ways. OPC's First Request for Production of Documents Nos. 1, 2, 7, 8, 10, 11, 15, 19-21, 28, 34, 36, 38, and 39 contain: MFR and testimony work papers; 2014, 2015 and 2016 incentive compensation information; pension plan and post-retirement benefits actuarial studies; financial presentations; prospectuses; work papers supporting the return on pension assets; affiliate management fees; Next Era Energy Board minutes; Next Era Energy and FPL tax returns; tax return work papers; credit rating agency correspondence; debt and equity issuances correspondence; and deprecation data.

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FPL seeks protection of these documents as provided in Section 366.093(3), F.S., and Rule 25-22.006(6)(c), F.A.C., while the material is in the possession of OPC. Section 366.093(2), F.S., directs that all records produced pursuant to a discovery request for which proprietary confidential status is requested shall be treated by any party subject to the public records law as confidential and exempt from the public records law, Section 119.07(1), F.S. Rule 25-22.006(6), F.A.C., codifies the Commission's policy regarding the protection of confidential information from public disclosure during the discovery process in a manner that is not overly burdensome to both parties. Rule 25-22.006(6)(a), F.A.C., in pertinent part, states:

In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure.


In addition, Rule 25-22.006(6)(c), F.A.C., states that if a party allows OPC to inspect or take possession of utility information, then that "utility may request a temporary protective order exempting the information from section 119.07(1), F.S."

Upon consideration of FPL's assertions of the confidential nature of the information contained in its responses to OPC's First Set of Interrogatories Nos. 3, 20, 25, 46, and 68 and First Request for Production of Documents Nos. 1, 2, 7, 8, 10, 11, 15, 19-21, 28, 34, 36, 38, and 39, FPL's Motion for Temporary Protective Order is hereby granted. As a result, this information shall be protected from disclosure pursuant to Rule 25-22.006(6)(c), F.A.C.

Based on the foregoing, it is hereby

ORDERED by Lisa Polak Edgar, as Prehearing Officer, that Florida Power & Light Company's Motion for Temporary Protective Order is granted.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 4th day of May, 2016.


LISA POLAK EDGAR
Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

SBr

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.